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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/141,107	08/28/98	FERNANDEZ, I	FERN 1004

LM71/0911

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EXAMINER	
ROBINSON BOYCE, A	

ART UNIT	PAPER NUMBER

DATE MAILED: 09/11/00 Remailed

#8

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/145,167	09/01/98	FERNANDEZ I	FERN-P004

LMC1/0811

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EXAMINER	
ROBINSON BOYCE,A	
ART UNIT	**PAPER NUMBER**
2765	8

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Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/145,167	Applicant(s) Fernandez, et al.
	Examiner Akiba Robinson-Boyce	Group Art Unit 2765

☒ Responsive to communication(s) filed on *May 19, 2000* .

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-20* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-20* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-8, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Levergood et al. (US Patent 5,708,780).

As per claim 1, Levergood et al. discloses:

a method for enhancing on-line commerce...(Abstract, lines 1-4):

determining by a server an attribute...(Col. 115, lines 9-10 and 15-16);

classifying the client...(Col. 115, lines 33-35);

directing a message by the server...(Col. 3, lines 16-20).

wherein the message is directed adaptively or dynamically according to the attributes of a plurality of clients classified in the set...(Col. 6, line 58-Col. 7, line 14, Col. 10, lines 24-36).

Claims 2, and 4-8 are rejected as discussed in paragraph #3, paper #6.

As per claims 19 and 20, Levergood et al. discloses:

receiving an attribute signal...(Col. 115, lines 9-10)

transmitting the attribute signal...receiving...(Col. 115, lines 32-34).

As per claims 19 and 20 Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levergood et al. in further view of Hoffberg et al. (US Patent 5,774,357).

As per claim 3, Levergood et al. fails to teach the following, however Hoffberg et al. discloses:

the attribute is provided by one or more client sensor/receiving an attribute signal...(Fig. 26, [2602], Col. 95, lines 64-66).

It would have been obvious to one of ordinary skill in the art to provide the attributes by client sensors because this is the type of device needed to provide the impulse necessary for the detection of client characteristics.

5. Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffberg et al. (US Patent 5,774,357) in further view of Levergood et al. (US Patent 5,708,780)

As per claims 9 and 13, Hoffberg et al. discloses:

an interface...(Abstract, line 4);

a processor...(Col. 95, line 61-63);

a sensor...(Col. 95, line 64-66);

wherein the interface is accessible by a server...(Col. 84, lines 8-25 [control])

whereby the processor may provide the network access to a signal generated by the sensor...(Col. 25, lines 46-55 and Col. 26, lines 57-67).

Hoffberg et al. doesn't specifically disclose accessing a second signal generated by the sensor, however, this feature is inherent with the system because the user characteristics are determined by signals generated by the client and since there is more than one characteristic, more than one signal will be generated.

Hoffberg, et al fails to teach the following, however Levergood, et al discloses:

according to a plurality...associated with the classified set...(Col. 6, line 58-Col. 7, line 14, Col. 10, lines 24-36).

It would have been obvious to one of ordinary skill in the art to incorporate the idea of associating the classified set into adaptively or dynamically directing the network signal according to the generated sensor signals because in order to direct these type of signals correctly and efficiently, they need to be classified or grouped in a specific order.

As per claim 10, Hoffberg et al. discloses:

the generated signal represents a...time value...(Col. 23, lines 51-53, [frequency]).

As per claims 11 and 12, Hoffberg et al. discloses:

the generated signal is stored in a database...the generated signal is compared with the other generated signal...(Col. 95, lines 1-25).

As per claim 14, Hoffberg et al. discloses:

the network signal comprises an...application program...(Abstract, lines 2-4).

As per claim 15, both Levergood, et al and Hoffberg et al. fail to disclose:

the sensor comprises a global positioning satellite system...

Official notice is taken that it is old and well known in the client-server art to have a sensor which comprises a GPS. It would have been obvious to one of ordinary skill in the art to have a sensor which comprises a GPS because it is necessary for one to locate the position of the client in order to determine attributes since this information can change according to location.

As per claim 16, Hoffberg et al. fails to disclose the following, however Levergood et al. discloses:

the interface further comprises a web browser...(Abstract, lines 1-7).

It would have been obvious to one of ordinary skill in the art to have a web browser on an interface because this is the most common type of application used in a client-server environment which makes system interaction and network access easier.

As per claim 17, both Levergood et al. and Hoffberg et al. fail to teach the following:

the network access through the web browser application is secured y the sensor determining a genetic identification..

Official notice is taken that it is old and well known in the client-server art for the web browser to determine a genetic identification of a user. It would have been obvious to one of ordinary skill in the art for the web browser to determine a genetic identification of a user for marketing and marketing analysis purposes.

As per claim 18, Hoffberg et al. fails to disclose the following:

the interface sends a transaction signal in response...

Official notice is taken that it is old and well known in the client-server art to send a transaction signal in response to the network signal. It would have been obvious to one of ordinary skill in the art to send a transaction signal in response to the

network signal because this is how one can determine if the attributes were successfully received.

Response to Arguments

6. Applicant's arguments filed 5/19/00 have been fully considered but they are not persuasive.

The applicant argues that prior art does not disclose the present invention. The applicant argues that Levergood, et al merely refers to maintaining a "database relating customer information to access patterns" and Hoffberg, et al merely refers to "a detector for detecting one or more temporal-spatial user characteristics of the input signal...". The applicant argues that prior art used does not describe adaptive direct transaction for networked client group according to attribute signals associated with a classified set, which classification is contextually mapped with such attribute signals, and further identified in a group registry. However, the examiner believes that Levergood, et al does disclose adaptive direct transaction for networked client group according to attribute signals associated with a classified set, which classification is contextually mapped with such attribute

signals, and further identified in a group registry (See, Col. 6, line 58-Col. 7, line 14 and col. 10, lines 24-36). Here, Levergood, et al teaches that the authentication server searches the account database (in which there are accounts for a plurality of users) to determine whether or not a user is authorized. Apparently, if the system has to query the account database for authorized users, this must mean that specific users are part of a set which are authorized to access certain documents. In combination with Levergood, et al, the rejection using Hoffberg, et al is valid and the examiner believes that the present invention is still not patentable over prior art used.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

An inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba Robinson-Boyce whose telephone number is (703) 305-1340. The examiner can normally be reached on Monday-Friday from 6:30 AM-3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Swann, can be reached on (703) 308-7791. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3988.

An inquiry of a general nature or relating to the status of this application proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

ERIC W. STAMBER
PRIMARY EXAMINER